IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 16532 of 2007(R)

PETITIONERS:

1. **ASOKAN ERIMMAL, S/O.M.NARAYANAN, ANUGRAH, P.O.MAMBA, KANNUR DISTRICT.**
2. **VINODAN N., S/O.LATE N.CHATHU, "TEJUS BHAVAN", ERUVATTY P.O., VIA.KADIRUR, KANNUR DIST.**
3. **GANESH BABU P.V., S/O.LATE O.K.KUNHIRAMAN, "SHREYAS", CHEMMARASSERI PARA VIA.AZHIKODE, KANNUR DIST.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

1. **KERALA PUBLIC SERVICE COMMISSION, REPRESENTED BY THE SECRETARY, KERALA PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.**
2. **THE DISTRICT OFFICER, KERALA PUBLIC SERVICE COMMISSION, KANNUR.**

BY ADV. SRI.ALEXANDER THOMAS,SC,KPSC
BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/11/2007 ALONG WITH WPC.NO.27834 OF 2007, WPC.NO.28649 OF 2007 AND WPC.NO.30091 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTIFICATION ISSUED BYTHE PSC.

EXT.P2: COPY OF THE HEAD CLERKS DUTIES COURSE WITH RESPECT TO THE 1ST PETITIONER.

EXT.P3: COPY OF DISCHARGE CERTIFICATE WITH RESPECT TO THE 1ST PETITIONER.

EXT.P4: COPY OF THE SERVICE PARTICULARS OF THE 2ND PETITIONER.

EXT.P5: COPY OF THE SERVICE PARTICULARS OF THE 3RD PETITIONER.

EXT.P6: COPY OF THE LETTER DTD. 16/12/2006 ISSUED TO THE 1ST PETITIONER.

EXT.P7: COPY OF THE LETTER DTD. 16/12/2006 ISSUED TO THE 2ND PETITIONER.

EXT.P8: COPY OF THE LETTER DTD. 16/12/2006 ISSUED TO THE 3RD PETITIONER.

EXT.P9: COPY OF THE LETTER DTD. 3/05/2007 ISSUED BY THE PSC TO THE 1ST PETITIONER.

EXT.P10: COPY OF THE LETTER DTD. 3/05/2007 ISSUED BY THE PSC TO THE 2ND PETITIONER.

EXT.P11: COPY OF THE LETTER DTD. 3/05/2007 ISSUED BY THE PSC TO THE 3RD PETITIONER.

EXT.P12: COPY OF THE SHORT LIST.

/TRUE COPY/

P.S.TO JUDGE

KSS

V.GIRI, J.

W.P.(C).No.16532, 27834, 28649 & 30091 of 2007

Dated this the 5th day of November, 2007.

JUDGMENT

Common issues arise for consideration in all these cases. Therefore, they have been heard together and are being disposed of by this common judgment. Pleadings are complete in W.P.(C)No.16532/07. Therefore, the same is taken as the leading case.

2. Petitioners applied for the post of L.D.Typist in various departments. Ext.P1 is the notification issued by the public service commission. Petitioners claim that they have put in more than 15 years of service in the Indian Army. They contend that in the light of the said fact, they are eligible to apply for the post of L.D.Typist in terms of the notification. Apparently, some of the petitioners were short listed. But subsequently, on verification, they have been found to be not eligible to apply for the said post and their applications were rejected. The rejection memos are under challenge in these writ petitions.

2. Public service commission in the counter affidavit in para 3 submits that the following are the qualifications to the post:

> **"a. SSLC or its equivalent**
>
> **b. Lower Grade Certificate in KGTE Malayalam Typewriting**
>
> **c. Lower Grade Certificate in KGTE English Typewriting and Computer Word Processing or its equivalent."**

3. It is further stated in the counter affidavit that the qualifications for the post are referred to in G.O.(P)No.143/77/GAD dated 18.5.1977 and G.O.(P) No.143/86/GAD dated 30.4.1986. In the said Government Orders, the Government had not provided for computer word processing as an essential qualification for selection to the post of L.D.Typist. But subsequently by G.O.(P) No.17/05/P&ARD dated 9.5.05, Government made computer word processing also as an essential qualification for selection to the post of L.D.Typist. With reference to the 1986 Government Order, persons with 15 years or more service in the Indian Army were treated as eligible to apply for posts in Government service for

which English Typewriting (Higher) Grade is prescribed as qualification, subject to the following conditions:

> **a. The persons so appointed will have to pass the K.G.T.E. English Typewriting (Higher) Grade or its equivalent qualification before completion of probation.**
> **b. Such candidates should also pass the Malayalam Typewriting (Lower) qualification during the period of probation as required in G.O.(P)No.143/77/GAD dated 18.5.1977, and**
> **c. the candidates should possess other educational qualification if any prescribed for such posts."**

4. Thus persons so appointed will have to pass KGTE English Typewriting (Higher) or its equivalent and Malayalam Typewriting (Lower) before completion of the probation. But Clause 3 mentioned above also makes it clear, according to the standing counsel for the Public service commission, that candidates should possess the prescribed qualifications for such posts. He contends that computer word processing is one of the prescribed qualifications for the post and the petitioners, therefore, should have had such qualification to be considered as eligible for applying for the post.

5. Petitioners have made copious reference to the nature of the duties they were discharging in the Indian Army and in some cases the training, which had been undergone, on the job while serving in the Indian Army. In W.P.(C)No.27834/07, it is asserted that the petitioners were using quite advanced computers eversince they had started working in the clerical cadre in the Army and therefore, computer word processing is probably the most basic qualification, which they had acquired on the job while they were serving in the Indian Army. They, therefore, contend that the prescription of a qualification in computer word processing, insofar as persons who had worked for more than 15 years in the clerical cadre in the Indian Army, is really unnecessary because persons like the petitioners are much more proficient in computer word processing, than a mere three months' training in the said discipline would enable them to attain.

6. I heard learned counsel for the petitioners and the standing counsel for the Public Service

Commission, as also the learned Government Pleader on behalf of the State.

7. In my view, the eligibility of the petitioners will have to be decided with reference to G.O.(P) No.143/86/GAD dated 30.4.1986 firstly for the reason that the eligibility insofar as Ex-service men are concerned, is mentioned in the said Government Order and secondly for the reason that it is this Government Order that is mentioned in Ext.P2 notification issued by the Public service commission. A reading of the said Government Order will show that Ex-servicemen who were qualified as clerks or who had served fore more than 15 years in the Indian Army are given the facility for applying to the post of L.D.Typist in various departments of the Government. But this facility is subject to the conditions which have already been extracted above. In other words, what was contemplated is not a permanent exemption of acquisition of qualification prescribed for the post, but only a deferment of acquisition of a qualification and confirmation in the post as such. Thus, the petitioners, if they are otherwise eligible for applying

to the post, derive a benefit of exemption from qualification on 30.4.86, in the sense that those persons who have completed 15 years service will be treated as eligible for the post, if they are otherwise eligible and they will be included in the list. If they are advised by the Public Service Commission and actually appointed, they will be eligible for exemption of all the qualifications during the period of probation. This is the purport of G.O. (P)No.143/86/GAD dated 30.4.86. If this is accepted, then it will naturally have to be read subject to and in conformity with the Government order. It will further show that the question of acquisition of a qualification in computer word processing or its equivalent qualification seems to be required only in the case of those persons who have acquired KGTE prior to January, 2002. This is apparently because computer word processing came to be included in the syllabus only with effect from January, 2002 and therefore, it became superfluous to treat computer word processing as a separate qualification in relation to persons who acquire KGTE Higher in the year 2002 or post 2002 syllabus. If this be the position, then it

would be meaningless to still treat computer word processing as a separate educational qualification within the meaning of Condition No.3 in G.O.(P)No.143/86/GAD dated 30.4.1986, inasmuch that the Ex-service men who claim the benefit of the said Government Order and the facility to be treated as eligible for applying in terms of Ext.P1 notification, would nevertheless be required to acquire the qualification of Typewriting KGTE (Higher) and KGTE Lower Grade certificate in Malayalam Typewriting during their probation among the prescribed qualifications. Since, at this point of time, the acquisition of KGTE Higher should obviously be on the basis of post January, 2002 syllabus, this will ipso facto result in the persons who acquire KGTE Higher in acquiring a proficiency in computer word processing also. In other words, insofar as acquisition of qualifications during the period of probation is concerned, which facility is given to Ex-servicemen, KGTE Higher and KGTE Lower Malayalam and computer word processing will have to be treated on a par. If that be so, since computer word processing is an integral part of 2002 syllabus, the acquisition of KGTE

Higher, which is a mandatory requirement for persons like the petitioners, will ipso fact result in the person acquiring the requisite proficiency in word processing. Then there is no meaning in prescribing computer word processing as a separate qualification to be necessarily possessed even prior to the selection process as such.

8. For all these reasons, I find that the stand taken by the Public service commission that the petitioners cannot be held eligible to apply for the post in various departments in terms of Ext.P1 notification is not sustainable. Subject to the petitioners having completed 15 years of service as Ex-servicemen in the clerical cadre in the Indian Army, they will be treated as eligible in terms of G.O.(P)No.143/86/GAD dated 30.4.1986 and consequently in terms of Ext.P1 notification. I declare so. I also make it clear that it is open to the Public service commission to verify whether the petitioners have completed 15 years in the Indian Army in the clerical cadre for being considered as eligible in terms of Ext.P1 notification. Consequently, petitioners will be included in

the rank list to be published, subject to the verification in manner aforementioned.

W.P.(C)No.27834, 28649 & 30091/07

The directions issued in W.P.(C)No.16532/07 will be applicable to the petitioners in these cases also.

Writ petitions are disposed of as above.

Sd/-

(V.GIRI)

JUDGE

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